

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
<i>ex rel.</i> , JONATHAN D’CUNHA, M.D.,	)	Civil Action No. 19-495
	)	
Plaintiff,	)	
	)	District Judge Cathy Bissoon
v.	)	
	)	<i>Electronically Filed</i>
DR. JAMES D. LUKETICH,	)	
UNIVERSITY OF PITTSBURGH	)	
MEDICAL CENTER, AND	)	
UNIVERSITY OF PITTSBURGH	)	
PHYSICIANS,	)	
	)	
Defendants.	)	

**MOTION FOR LEAVE OF COURT TO FILE UNREDACTED**  
**COMPLAINT UNDER SEAL**

NOW COMES the United States of America (the “United States”), by and through its attorney, Stephen R. Kaufman, Acting United States Attorney for the Western District of Pennsylvania, and in accordance with LCvR 5.2.H, and respectfully moves this Court for leave to file an unredacted copy of the United States’ Complaint in Partial Intervention under seal, stating as follows:

1. In accordance with the Court’s August 31, 2021 Order (Dkt. No. 62), the United States filed its Complaint in Partial Intervention earlier today.
2. Some of the allegations in said Complaint in Partial Intervention were based, at least in part, on documents produced to the United States by Defendant University of Pittsburgh Medical Center (“UPMC”), and designated by UPMC as containing “Protected Information” pursuant to a June 2020 Agreement Regarding the Disclosure of Information between the United States and UPMC (the “Agreement”). A copy of the Agreement (which defines “Protected Information” as that which contains “trade secrets, proprietary financial or commercial material,

or other sensitive information, including but not limited to information protected under the Pennsylvania Peer Review Protection Act ... or the Health Insurance Portability and Accountability Act of 1996”) is attached hereto as Exhibit A.

3. Under the terms of the Agreement, the United States agreed to file any “Protected Information” under seal, “unless and until the Court orders otherwise.” (Ex. A ¶ 5.)

4. Therefore, the United States redacted certain paragraphs in its Complaint in Partial Intervention which summarized or quoted from documents that UPMC designated as containing “Protected Information,” and now seeks leave to file an unredacted version of its Complaint in Partial Intervention under seal.

5. By making this request, the United States does not waive its right to challenge UPMC’s designations, or to later move to unseal the unredacted version of its Complaint in Partial Intervention, or any other filings or pleadings containing or attaching information that UPMC has designated, or will designate, as “Protected Information.”

WHEREFORE, the United States respectfully requests that the Court grant its Motion for Leave of Court to File Unredacted Complaint Under Seal, and enter the attached, proposed Order.

Respectfully submitted,

STEPHEN R. KAUFMAN  
Acting United States Attorney

/s/ Adam Fischer  
ADAM FISCHER (PA 314548)  
Assistant United States Attorney  
Joseph F. Weis, Jr. U.S. Courthouse  
700 Grant Street, Suite 4000  
Pittsburgh, Pennsylvania 15219  
Tel.: (412) 894-7431  
Fax: (412) 644-6995  
Email: [adam.fischer@usdoj.gov](mailto:adam.fischer@usdoj.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of September, 2021, a true and correct copy of the foregoing Motion for Leave of Court to File Complaint Under Seal was served via electronic and/or first-class mail upon all counsel of record.

/s/ Adam Fischer  
ADAM FISCHER  
Assistant U.S. Attorney